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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,302	10/14/2003	Joseph M. Asher	069547.0162	7925

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BAKER BOTTS L.L.P.
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EXAMINER

RENDON, CHRISTIAN E

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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08/07/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/687,302

Applicant(s)

ASHER ET AL.

Examiner

Christian E. Rendón

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :03/02/07
01/06/06 04/15/05 0218/04 01/20/04.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed on 01/24/07 fails to comply with the provisions of 37 CFR 1.98(b)(5) and MPEP § 609 since References O & P on page 1 & References Q, N, & O on page 2 were listed without a date, therefore were not considered. 37 CFR 1.98(b) states, "Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, & place of publication." For future references, Applicant is advised to comply with 37 CFR 1.97, 1.98 & MPEP 609 when filing an IDS.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 9, 21, 32 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As the examiner on this case the vagueness of the limitation creates two possible interpretations of 'may not be established' as the lost of a bet or the bet is not offered. The first possibility, the lost of a bet will be used to evaluate the claims until suggested to do otherwise.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (US 5,830,068).

Art Unit: 3714

1. Brenner discloses a system for accepting off-track wagering using a totalisator (col. 5, lines 35-38), which is a computerized system that runs pari-mutuel bets, calculates and displays payoff odds on a racing event, and produces tickets based on incoming bets (col. 5, lines 38-40).

Therefore sports betting on racing events like a horse race inherently incorporates a pari-mutuel betting system and vice versa. The system is constructed as follow: the totalisator is located at a racetrack (col. 3, lines 35-36) and is connected to several off-site user terminals (col. 3, lines 20-21) through a network (Fig. 1). The user terminals will display racing data: odds, predicted and actual payoffs, handicaps, pools, and the weather (col. 4, lines 23-26). All of this information is provided for all races that have not started therefore the wagering has not been closed and is ongoing (col. 6, lines 5-7). After reviewing the information, a user is allowed to select a race, a wager type and amount on one or more runners (col. 4, lines 32-34).

2. Regarding claims 1-2, 5-7, 11-14, 17-19, 23-25, 28-29, 31, 34-36, 39-40, 42 and 45-46, the system offers a user the ability to select from a group of participants or runners (col. 4, lines 32-34) for an event. Dependent on the type of bet the user chooses, he or she will have to create a subset of participates that will finish in winning positions. The system offers a user several types of bets like an exacta, a trifecta and a quinella bet (col. 6, lines 3-4). These are just three of the many of types of bets that are typical to a horse race/track and therefore are incorporated by reference. In order for a gambler to win an exacta bets, he or she must properly guess the exact order of first and second place. A much easier bet to win is a quinella since the gambler's choices can win in any order. As for winning a trifecta bet, the gambler must also properly guess the exact order of first, second and third place. The easier version of this type of bet is called trifecta box, the three guesses can finish in any order. The higher odds of winning and the lower payoff predictions are two indications that a quinella and a trifecta box are easier to win when compared to the odds and payoff of an exacta and trifecta bet (col. 6, lines 15-17). Therefore a gambler has the power to

customize the odds for his/her bet by choosing between a quinella or exacta bet. Furthermore, when a gambler chooses to place an exacta or trifecta bet he or she is selecting a group of participants from a field of participants based on the odds of this predication occurring and the first place choice is the lead participant.

3. Regarding claims 3-4, 10, 15-16, 22, 26-27, 33, 37-38 and 44, the reference Brenner inherently incorporates sports betting at a racetrack and horse racing. Therefore the features based on the odds associated with a participant in a race are also inherently incorporated. In other words, the limitation about a total return based on odds, one-one odds and target percentage are typical features of sports betting at a racetrack. As shown by Rossides (US 6,443,841 B1), which is cited in this action as extrinsic evidence. The Rossides reference defines one to one odds as a percentage of 50% (Rossides: col. 3, lines 59-61) and defines the equation (Rossides: col. 3, lines 59-61) used to calculate a target percentage or the payoff odds as a percentage. Therefore a gamblers total returns or payoff is based on the odds.

4. Regarding claims 8, 20, 30 and 41, the prior art discloses a type of bet quinella that is also called an exacta box. The Examiner would like to state again that information associated with sports betting on horse races is inherent and incorporated by the reference. A quinella bet is made by placing different or similar amount of cash on each of the gambler's two choices therefore a portion of the total bet amount is allocated to each participant. The gambler makes this decision, which is based on any number of factors, and the odds associated with each participant is a possible decision factor.

5. Regarding claims 9, 21, 32 and 43, as stated above the phrase 'may not be established' is viewed as 'the lose of a bet.' Therefore the claim reads as the lose of a bet that had odds associated with a participant. Furthermore this interpretation is clearly found in the prior art.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian E. Rendón whose telephone number is 571-272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian E Rendón
Examiner
Art Unit 3714

CER


XUAN M. THAI
SUPERVISORY PATENT EXAMINER
TC3700